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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/659,336

09/11/2003

John Compton

0259.100.US

3765

7590

01/21/2005

EPSTEIN & GERKEN
Suite 340
1901 Research Boulevard
Rockville, MD 20850

EXAMINER

LAVARIAS, ARNEL C

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Ar

Office Action Summary	Application No. 10/659,336	Applicant(s) COMPTON, JOHN	
	Examiner Arnel C. Lavarias	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-9, drawn to a telescope, including a frictional adjustment mechanism carried by the azimuth assembly and comprising an extension element having an end surface selectively extendable into frictional contact with one of the lips to maintain alignment of said contact surfaces on said tracks, classified in Class 359, subclass 429.
 - II. Claims 10-15, drawn to a telescope, including a clamp assembly disposed between the bearings and comprising a plurality of longitudinally spaced clamp members selectively pivotal between open and closed clamp positions and an actuating mechanism for pivoting said clamp members between open and closed clamp positions, each of the clamp members having an aperture through which said telescope tube extends, the telescope tube being movable longitudinally along the central longitudinal axis and being rotatable about the central longitudinal axis within the apertures when the clamp members are in open clamp position, said telescope tube being prevented from moving longitudinally along the central longitudinal axis and being prevented from rotation about the central longitudinal axis within the apertures when said clamp members are in closed clamp position, the actuating mechanism including an actuating member interconnecting the clamp members for pivotal movement between open and

closed clamp positions and an operating member for operating the actuating member to move the clamp members between open and close clamp positions, classified in Class 359, subclass 819; Class 248, subclass 637.

- III. Claims 16-20, drawn to a telescope, including an elongate telescope tube having a central longitudinal axis and comprising a plurality of elongate wooden slats and a like plurality of elongate wooden ribs interconnecting the slats to approximate a cylinder, each of the slats being planar and having an internal surface facing the central longitudinal axis, an external surface opposite the internal surface, and parallel sides connecting the internal surface to the external surface, each of the ribs being planar and having an interior surface facing the central longitudinal axis, an exterior surface opposite the interior surface, parallel sides connected to the exterior surface at outer corners and connected to the interior surface at inner corners, and opposed slots extending along the sides of the rib, respectively, with the slots extending in the rib angularly inwardly in opposite directions toward one another at the same angle from the inner corners, each of the slats being disposed between a pair of adjacent ones of the ribs with one of the sides of each of the slats received in a corresponding one of the slots of the adjacent ones of the ribs, classified in Class 359, subclass 399.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I, II, and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, all of the subcombinations have

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separate utility in a combination without the particulars of the other subcombinations.

See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. Because these inventions are distinct for the reasons given above and the search required for a particular Group is not required for the remaining Groups, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. A telephone call was made to Karen M. Gerken (301-610-7634) on 1/18/05 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnel C. Lavarias whose telephone number is 571-272-2315. The examiner can normally be reached on M-F 8:30 AM - 5 PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arnel C. Lavarias
Patent Examiner
Group Art Unit 2872
1/18/05